

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**BARNES, INC., a Colorado Corporation;**

**Plaintiff,**

**vs.**

**FAT BRAIN TOYS, LLC, a Delaware  
Limited Liability Company; and MAXIM  
ENTERPRISE, INC., a Massachusetts  
corporation;**

**Defendants.**

**8:24CV246**

**ORDER TO SHOW CAUSE**

On May 14, 2025, the Court provided Plaintiff with leave to file an amended complaint adding a new defendant to this case, Maxim Enterprise, Inc. (“Maxim”). (Filing No. 39). Plaintiff filed the First Amended Complaint on May 16, 2025. ([Filing No. 40](#)). On June 5, 2025, Plaintiff filed an “Affidavit of Service” indicating the First Amended Complaint with attached exhibits were served upon Maxim on May 28, 2025, at “450 Bolivar Street, Canton, MA 02021 by posting the documents in a conspicuous place at the Premises.” ([Filing No. 43](#)). However, Plaintiff never requested nor served summons upon the newly added defendant Maxim. As such, the “Affidavit of Service” filed by Plaintiff is insufficient to establish that Maxim has been properly served. See, e.g., *Doe v. Univ. of Arkansas - Fayetteville*, No. 5:21-CV-05231, 2022 WL 213996, at \*2 (W.D. Ark. Jan. 24, 2022) (“If Plaintiff wishes to add any new defendant by amending her complaint, she must name the defendant in the amended complaint and serve the newly named defendant with a summons and a copy of the complaint as required by Federal Rules of Civil Procedure 4 and 5.”); *Kaden v. Chamisa Arts, Inc.*, No. 3:15-CV-146, 2016 WL 7616692, at \*3 (W.D. Tex. July 15, 2016) (“[I]f an amended complaint names a new defendant, the plaintiff must serve that defendant with the summons and amended complaint in compliance with Rule 4.”). Accordingly,

**IT IS ORDERED** that Plaintiff shall have until **July 30, 2025**, to show cause why the “Affidavit of Service” ([Filing No. 43](#)) as to Defendant, Maxim Enterprise, Inc., should not be stricken, or take other appropriate action.

Dated this 9<sup>th</sup> day of July, 2025.

BY THE COURT:

s/Michael D. Nelson  
United States Magistrate Judge